

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES DAVID GRIEPSMA,

Plaintiff,

v.

CHRISTIAN J. ANDERSEN, *et al.*,

Defendants.

CASE NO. C21-0302-JCC-TLF

ORDER

This matter comes before the Court on the Plaintiff's objections (Dkt. No. 233) to the report and recommendation ("R&R") of the Honorable Theresa L. Fricke, United States Magistrate Judge (Dkt. No. 231). Having thoroughly considered the briefing and the relevant record, the Court hereby **OVERRULES** Plaintiff's objections, **ADOPTS** the R&R, and **GRANTS** Defendants Guillermo Garcia, Douglas Faddis, and Cameron Banas's motion for summary judgment for the reasons explained herein.

Plaintiff brings 42 U.S.C. § 1983 claims alleging violations of his Eighth and Fourteenth Amendment rights based on excessive force. (*See* Dkt. No. 43 at 4–5, 12–15.) The R&R sets forth the allegations against Defendants Garcia, Faddis, and Banas, which the Court will not repeat here. (*See* Dkt. No. 231 at 3–7.) Those defendants (along with two others) moved for summary judgment. (Dkt. No. 104 at 9–20.) Initially, Judge Fricke recommended denying summary judgment to all Defendants. (*See generally* Dkt. No. 218.) However, based on the

1 objections of Defendants Garcia, Faddis, and Banas, (Dkt. No. 219), the Court instructed Judge  
2 Fricke to provide it with a revised R&R containing a separate analysis of Plaintiff's claims  
3 against just those defendants—none of whom were alleged to have struck Plaintiff. (*See* Dkt. No.  
4 223 at 2–3.) That revised R&R recommends that the Court grant summary judgment, at least to  
5 the non-striking defendants, and dismiss Plaintiff's claims against them with prejudice. (*See* Dkt.  
6 No. 231 at 1, 11.) In response, Plaintiff lodged the instant objections, now before the Court. (*See*  
7 *generally* Dkt. No. 233.)

8 A district court reviews *de novo* those portions of an R&R to which a party objects. *See*  
9 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Here, Plaintiff primarily objects to Judge  
10 Fricke's factual characterizations. (*See* Dkt. No. 233 at 1–4.) But all are based on uncontroverted  
11 evidence that Defendants put forth in moving for summary judgment. (*See generally* Dkt. No.  
12 104.) Plaintiff therefore is barred from now attempting to establish those facts through his  
13 objections, in an effort to conjure up a genuine dispute where none existed before. *See Nissan*  
14 *Fire & Marine Ins. Co., Ltd. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1103 (9th Cir. 2000)  
15 (describing evidentiary burden of nonmoving party to defeat a motion for summary judgment).

16 For the foregoing reasons the Court hereby ORDERS that:

- 17 1. The R&R (Dkt. No. 233) is ADOPTED and APPROVED;
- 18 2. Defendants' motion for summary judgment (Dkt. No 104) is GRANTED as to  
19 Defendants Garcia, Faddis, and Banas;
- 20 3. Plaintiff's claims against those defendants are DISMISSED with prejudice; and
- 21 4. The Clerk is DIRECTED to send copies of this Order to counsel of record and to  
22 Judge Fricke.

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1 DATED this 6th day of March 2024.

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5 John C. Coughenour  
6 UNITED STATES DISTRICT JUDGE  
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